AMENDED IN SENATE JUNE 19, 2008

AMENDED IN ASSEMBLY MAY 23, 2008

AMENDED IN ASSEMBLY APRIL 23, 2008

AMENDED IN ASSEMBLY APRIL 3, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL No. 2146

Introduced by Assembly Member Feuer

February 20, 2008

~~An act to add Section 1279.4 to the Health and Safety Code, relating to health facilities.~~ *An act to add Sections 1279.4 and 1371.6 to the Health and Safety Code, to add Sections 10133.57 and 12693.55 to the Insurance Code, and to add Section 14110.25 to the Welfare and Institutions Code, relating to health coverage.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2146, as amended, Feuer. Health care providers: billing.

Existing law provides for the licensure and regulation of health facilities~~, as defined,~~ *including hospitals* by the State Department of Public Health. Violations of these provisions is a misdemeanor. ~~Existing law requires the department to take various actions related to the reporting to, and the investigation by, the department of any adverse events, as defined, that occur at specified health facilities.~~

~~Existing law also requires the use of a uniform billing system by providers of professional health services and institutional provider services, as defined.~~

~~This bill would prohibit a health care provider, as defined, from billing a patient or a payer, as defined, for care or services provided during~~

~~which occurred, or that resulted in the occurrence of, an adverse event, as defined. Certain designated adverse events would apply only to specified health facilities. The bill would also prohibit a health care provider from billing a patient or a payer for the additional costs of care and services necessary to treat, ameliorate, or correct the consequences of an adverse event.~~

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the regulation of health care service plans by the Department of Managed Health Care. Existing law requires a health care service plan to provide specified coverage to its enrollees and subscribers. Existing law provides that a willful violation of the act is a crime.

Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law requires a health insurance policy to provide specified coverage to insured persons.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services and under which qualified low-income persons receive health care benefits. Existing law establishes the Healthy Families Program, administered by the Managed Risk Medical Insurance Board, to arrange for the provision of health services to an eligible person.

This bill would require the development and implementation of policies governing the payment of health care providers for hospital-acquired conditions by the Healthy Families Program and the Medi-Cal program, consistent with the policies developed by the federal Centers for Medicare and Medicaid Services. The bill would prohibit a contract between a contracting provider and a health care service plan or an insurer from prohibiting the adoption, implementation, or exercise of nonpayment policies for hospital-acquired conditions. The bill would preclude a patient from being charged by a contracting provider for care and services for which payment has been denied by a the Healthy Families Program, the Medi-Cal program, a health care service plan, or an insurer according to the nonpayment policies established pursuant to the bill.

This bill would require the medical director and the director of nursing of a hospital to report annually to the facility's board of directors regarding hospital-acquired conditions, as provided. The bill would require the Secretary of California Health and Human Services to report to the Governor and the Legislature, on or before January 1, 2011, and biannually thereafter, specified information relating to the

nonpayment policies for the Healthy Families Program and the Medi-Cal program, and the prevention of hospital-acquired conditions.

By changing the definition of ~~an~~ existing ~~crime~~ *crimes*, this bill would impose a state-mandated local program.

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 1279.4 is added to the Health and Safety Code, to read:

1279.4. (a) (1) The medical director and the director of nursing of each health facility, as defined by subdivision (a), (b), or (f) of Section 1250, shall report annually to the board of directors or other similar governing body the following:

(A) The number of hospital-acquired conditions that occurred in the facility.

(B) The outcomes for each patient involved.

(C) Comparison to comparable institutions of rates of hospital-acquired conditions, if this data exists and is publicly available.

(2) The report prepared pursuant to paragraph (1) shall be made available by the health facility to the department or to any member of the public upon request.

(3) A health facility shall include in its annual report a statement of compliance with this section.

(b) The secretary, on or before January 1, 2011, and biannually thereafter, shall report to the Legislature and the Governor on all of the following:

(1) The status and efficacy of nonpayment policies for the Medi-Cal program and the Healthy Families Program.

(2) The status and efficacy of nonpayment policies adopted by private health plans.

(3) Other opportunities and strategies to improve patient safety through prevention of hospital-acquired conditions.

SEC. 2. Section 1371.6 is added to the Health and Safety Code, to read:

1371.6. (a) A contract entered into between a contracting provider and a health care service plan shall not prohibit the adoption, implementation, or exercise of nonpayment policies for hospital-acquired conditions consistent with those adopted pursuant to Section 14110.25 of the Welfare and Institutions Code or Section 12693.55 of the Insurance Code.

(b) A contracting provider shall be precluded from charging a patient for care and services for which payment is denied by a health care service plan pursuant to nonpayment policies for hospital-acquired conditions pursuant to this section.

(c) A contracting provider shall be precluded from charging an uninsured patient for any condition that would be subject to the nonpayment policies of the Medi-Cal program or the Healthy Families Program adopted pursuant to Section 14110.25 of the Welfare and Institutions Code or Section 12693.55 of the Insurance Code.

SEC. 3. Section 10133.57 is added to the Insurance Code, to read:

10133.57. (a) A contract entered into between a contracting provider and an insurer shall not prohibit the adoption, implementation, or exercise of nonpayment policies for hospital-acquired conditions consistent with those adopted pursuant to Section 14110.25 of the Welfare and Institutions Code or Section 12693.55.

(b) A contracting provider shall be precluded from charging a patient for care and services for which payment is denied by an insurer pursuant to nonpayment policies for hospital-acquired conditions pursuant to this section.

(c) A contracting provider shall be precluded from charging an uninsured patient for any condition that would be subject to the nonpayment policies of the Medi-Cal Program or the Healthy Families adopted pursuant to Section 14110.25 of the Welfare and Institutions Code or Section 12693.55.

SEC. 4. Section 12693.55 is added to the Insurance Code, to read:

12693.55. The board, in collaboration with the State Department of Health Care Services, shall develop and implement policies governing the payment of health care providers for hospital-acquired conditions by the Healthy Families Program as follows:

(a) The board shall adopt payment policies consistent with those developed by the federal Centers for Medicare and Medicaid Services (CMS) pursuant to Section 5001(c) of the Deficit Reduction Act of 2005 (42 U.S.C. Sec. 1395ww(d)(4)), regarding nonpayment for hospital-acquired conditions.

(b) The board, in collaboration with the State Department of Health Care Services, shall, to the extent feasible, synchronize its definitions, coding and practices with CMS regarding nonpayment policies for hospital-acquired conditions pursuant to paragraph (1).

(c) The board shall annually evaluate additional hospital-acquired conditions that are appropriate for nonpayment policies and shall incorporate those hospital-acquired conditions into its nonpayment policies.

(d) A contracting provider shall be precluded from charging a patient for care and services for which payment is denied by the Healthy Families Program pursuant to this section.

SEC. 5. Section 14110.25 is added to the Welfare and Institutions Code, to read:

14110.25. The department shall develop and implement policies governing the payment of health care providers for hospital-acquired conditions under this chapter, as follows:

(a) The department shall adopt payment policies consistent with those developed by the federal Centers for Medicare and Medicaid Services (CMS) pursuant to Section 5001(c) of the Deficit Reduction Act of 2005 (42 U.S.C. Sec. 1395ww(d)(4)), regarding nonpayment for hospital-acquired conditions.

(b) The department shall, to the extent feasible, synchronize its definitions, coding, and practices with CMS regarding nonpayment policies for hospital-acquired conditions pursuant to paragraph (1).

(c) The department shall annually evaluate additional hospital-acquired conditions that are appropriate for nonpayment policies and shall incorporate those hospital-acquired conditions into its nonpayment policies.

(d) A contracting provider shall be precluded from charging a patient for care and services for which payment is denied by the Medi-Cal program pursuant to this section.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

~~SECTION 1. Section 1279.4 is added to the Health and Safety Code, to read:~~

~~1279.4. (a) For the purposes of this section, the following definitions shall apply:~~

~~(1) "Health care provider" means either of the following:~~

~~(A) A health facility, as defined in subdivision (a), (b), or (f) of Section 1250.~~

~~(B) A health care provider licensed under Division 2 (commencing with Section 500) of the Business and Professions Code.~~

~~(2) "Payer" means a self-insured employer, health care service plan, as defined in subdivision (f) of Section 1345, disability insurer that covers hospital, medical, or surgical services, or other entity that assumes the risk for payment of claims or reimbursement for health services to health care providers subject to this section.~~

~~(3) "Serious disability" has the same meaning as that term is used in subdivision (d) of Section 1279.1.~~

~~(b) (1) A health care provider shall not bill a patient or a payer for care or services provided during which occurred, or that resulted in the occurrence of, any of the following adverse events:~~

~~(A) Surgery performed on a wrong body part, as defined for reporting purposes under Section 1279.1.~~

~~(B) Surgery performed on the wrong patient.~~

~~(C) The wrong surgical procedure performed on a patient, as defined for reporting purposes under Section 1279.1.~~

~~(D) Retention of a foreign object in a patient after surgery or other planned procedure, as defined for reporting purposes under Section 1279.1.~~

~~(E) Patient death or serious disability associated with the use of a contaminated drug, device, or biologic, as defined for reporting purposes under Section 1279.1.~~

~~(F) Patient death or serious disability associated with a medication error, as defined in subparagraph (A) of paragraph (4) of subdivision (b) of Section 1279.1.~~

~~(G) Maternal death or serious disability with labor or delivery in a low-risk pregnancy.~~

~~(H) Sexual assault on a patient committed by a health care provider included under subparagraph (A) of paragraph (1) of subdivision (a). Notwithstanding this paragraph, the health care provider shall be prohibited from billing for any services provided to a patient who has been the victim of sexual assault by that health care provider.~~

~~(I) Patient death or serious disability due to spinal manipulation.~~

~~(2) A health care provider shall not bill a patient or a payer for the additional costs of care and services necessary to treat, ameliorate, or correct the consequences of an adverse event described in paragraph (1).~~

~~(c) (1) In addition to the requirements of subdivision (b), a health facility, as defined in subdivision (a), (b), or (f) of Section 1250, shall not bill a patient or a payer for care or services provided during which occurred, or that resulted in the occurrence of, any of the following adverse events:~~

~~(A) Any instance of care ordered by or provided in the health facility by someone impersonating a physician, nurse, pharmacist, or other licensed health care provider.~~

~~(B) Patient death or serious disability associated with intravascular air embolism, as defined for reporting purposes under Section 1279.1.~~

~~(C) A patient death or serious disability associated with an electric shock while being cared for in a health facility, excluding events involving planned treatments, such as electric countershock.~~

~~(D) Any incident in which a line designated for oxygen or other gas to be delivered to a patient contains the wrong gas or is contaminated by a toxic substance.~~

~~(E) A patient death or serious disability associated with a burn incurred from any source while being cared for in a health facility.~~

~~(F) A patient death or serious disability associated with the use of restraints or bedrails while being cared for in a health facility.~~

~~(2) A health facility, as defined in subdivision (a), (b), or (f) of Section 1250, shall not bill a patient or a payer for the additional costs of care and services necessary to treat, ameliorate, or correct the consequences of an adverse event described in paragraph (1).~~

~~(d) In addition to the requirements of subdivisions (b) and (c), a health facility, as defined in subdivision (a), (b), or (f) of Section 1250, shall not bill a patient or a payer for the additional costs of care and services necessary to treat, ameliorate, or correct the consequences of any one of the following adverse events:~~

~~(1) The abduction of a patient of any age.~~

~~(2) Sexual assault on a patient within or on the grounds of a health facility.~~

~~(3) Death or significant injury of a patient resulting from a physical assault within or on the grounds of the health facility.~~

~~(4) An infant discharged to the wrong person.~~

~~(5) Patient death or serious disability associated with a patient disappearance for more than four hours, as defined for reporting purposes under Section 1279.1.~~

~~(6) A patient suicide or attempted suicide resulting in serious disability, reasonably within the control of the facility, and as defined for reporting purposes under Section 1279.1.~~

~~(7) A stage 3 or 4 decubitus ulcer, acquired after admission, as defined for reporting purposes under Section 1279.1.~~

~~(8) Health consequences associated with the use or function of a device in patient care in which the device is used or functions other than as intended. For purposes of this paragraph, "device" includes, but is not limited to, a catheter, drain, or other specialized tube, infusion pump, or ventilator.~~

~~SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to~~

~~local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.~~

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